

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

July 19, 2012

A meeting of the Board of Environmental Protection was held on Thursday, July 19, 2012 at the Civic Center located on 76 Community Drive in Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Alvin Ahlers, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard.

Tom Eastler and Robert Foley were absent.

Staff: Cyndi Darling, Bureau of Remediation and Waste Management
Paula Clark, Bureau of Remediation and Waste Management

Others: Patricia Aho, Commissioner
Cynthia S. Bertocci, BEP Executive Analyst
Nancy Macirowski, Assistant Attorney General
Terry Dawson, BEP Administrative Assistant

(Meeting adjourned at approximately 11:45 a.m.)

I. DEPARTMENTAL**A. COMMISSIONER'S COMMENTS:**

1] Metallic Mining: As a result of Legislation, the Department is required to amend the current metallic mining rule to conform with the Maine Metallic Mineral Mining Act (PL 2011, ch 653). This effort has begun with a request for proposals (RFP) process seeking consultant services from technical experts to assist the Department in the development of the rule. The Department is looking forward to receiving proposals for evaluation. The Department's goal is to finalize the contract selection process this fall which would put us ahead of schedule with regard to establishing our technical team.

The rule is major substantive; therefore, the Board will be asked to conduct rulemaking proceedings. The Department anticipates that formal rulemaking will begin in the winter or early spring 2013.

2] Passadumkeag Ridge Wind Project: The Department is currently reviewing an application for a 42 megawatt wind power facility (14 turbines – 459 feet tall) to be located in Grand Falls Township.

The Commissioner noted that she has instituted a new internal review protocol requiring a second public informational meeting. The Passadumkeag project is the first application to be subjected to the new public meeting requirements. A second meeting was held on July 12th to receive comments on the Department's draft analysis of the project. This new step in the review process provides for additional public input for wind power development projects.

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS: None

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed.

F. EXECUTIVE SESSION: None

II. CONSENT AGENDA ITEMS:

1. BEP MEETING MINUTES – June 20, 2012 (Approval)

The Board voted (2-0-2-3) to approve consent agenda item 1 as presented. The vote was taken pursuant to 38 M.R.S.A. §341-D.

Board members M. Wing Goodale and Susan M. Lessard voted to support the motion. Board members Alvin Ahlers, Elizabeth Ehrenfeld and Richard Gould abstained. Board members Tom Eastler and Robert Foley were absent.

II. Regular Agenda

1. STATE OF MAINE, ACTING THROUGH THE STATE PLANNING OFFICE – JUNIPER RIDGE LANDFILL EXPANSION PUBLIC BENEFIT DETERMINATION S-020700-W5-BB-N (appeal submitted by Edward S. Spencer)

Staff: Paula Clark, Bureau of Remediation and Waste Management

Staff: Cyndi Darling, Bureau of Remediation and Waste Management

The Board voted (5-0-0-2) on a motion to deny the appeal filed by Mr. Edward Spencer and approve the draft proposed Board Order affirming the Commissioner's decision documented in Department Order S-020700-W5-AU-N finding a substantial public benefit for an expansion of 9.35 million cubic yards at the State owned Juniper Ridge Landfill located in Old Town.

Note: The draft proposed board order was amended to correct a citation on page 10. "...38 M.R.S.A. §1310-AA(5) ..."

The vote was taken pursuant to 38 M.R.S.A. §§ 341 to 358 and §1301 to §1310-AA, and 06-096 CMR Chapter 400 (*Solid Waste management Rules*) and Chapter 2 (*Rules Concerning the Processing of Applications and Other Administrative Matters*).

Board members Alvin Ahlers, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board members Tom Eastler and Robert Foley were absent.

2. CHAPTER 882, DESIGNATION OF BISPHEENOL AS A PRIORITY CHEMICAL AND REGULATION OF BISPHEENOL A IN CHILDREN'S PRODUCTS, SECTIONS 2 AND 5. // AMENDMENTS (Citizen initiated rulemaking to require safer alternatives to BPA in food and beverage packaging for young children.)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (5-0-0-2) on a motion to post to public hearing a citizen initiated rulemaking to amend Chapter 882, Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products. The amendments propose to add a definition of "toddler food" and to extend the sales prohibition to include the sale of infant formula and baby food (effective January 1, 2013) and toddler food (effective January 1, 2014) in plastic containers that contain "intentionally-added" bisphenol-A. The proposed rule modifies the definition of "intentionally added" to specify that BPA is intentionally added whenever a component of a product or product packaging is made from polycarbonate plastic or epoxy resin containing BPA. The Board anticipates a September public hearing.

Note: The proposed sales prohibition is a major substantive rule. Other proposed amendments would modify routine technical provisions of rule which are under the authority of the Commissioner. The proceeding will be a joint rulemaking by the Board and the Commissioner.

The vote was taken pursuant to 5 M.R.S.A. §8055 and 38 M.R.S.A §341-H and §1696.

Board members Alvin Ahlers, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board members Tom Eastler and Robert Foley were absent.

Next Regular Meeting –Thursday, August 16, 2012 – Civic Center, 76 Community Drive, Augusta